

EXHIBIT 16

KERRY KENNY 30b6 Conf.
IN RE COLLEGE ATHLETE NIL LITIGATION

October 04, 2023

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL) Case No.
LITIGATION) 4:20-CV-03919-CW

NETWORK STRICTLY CONFIDENTIAL

The videotaped Rule 30(b)(6) deposition of THE BIG TEN CONFERENCE, INC. through KERRY KENNY, called as a witness for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before VICTORIA C. CHRISTIANSEN, a Certified Shorthand Reporter of the State of Illinois, CSR No. 84-3192, at Suite 3200, 71 South Wacker Drive, Chicago, Illinois, on the 4th day of October, A.D. 2023, at 9:03 a.m.

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1 And so to the extent that the July 2021
2 rules are true NIL and that's the way that they're
3 being applied, then our model is still consistent
4 with the pre July 2021 model for the fact that
5 student athletes are now able to maximize
6 opportunities surrounding their true NIL, and the
7 Big Ten supports that.

8 Q. Yeah, and I just want to focus on the
9 competitive balance bit. Sorry for this, but just
10 in terms of true NIL, in the competitive balance
11 equation, true NIL doesn't have an adverse effect
12 on competitive balance? If it's true NIL. That's
13 my question.

14 A. Generally speaking, true NIL -- because
15 again we support it, we encourage it -- you would
16 not expect it to have any imper- -- im- -- sort of
17 impact on competitive balance.

18 That's not to say that anecdotally
19 within locker rooms, within athletic departments
20 that it doesn't have an impact on balance within an
21 institution or within a set of teams or within a
22 conference, but from a general perspective, again,
23 true NIL is allowing student athletes to maximize
24 their name, image and likeness in a way that's

1 consistent with still allowing them to be tethered
2 to education, there is academics first, athletics
3 second and part of the larger student community
4 that is there for, you know, reasons of
5 participating in extracurricular activities as part
6 of their educational experience.

7 Q. The anecdotes that you mentioned, are
8 those things that you're concerned about as not
9 being true NIL?

10 A. Things that are not true NIL are
11 absolutely things that threaten the competitive
12 balance model.

13 Q. Yeah. I just wanted to make sure when
14 you talk about the anecdotes, are those anecdotes
15 about things that aren't true NIL, potentially?

16 A. Anecdotes about the team --

17 Q. You mentioned -- and I don't want to go
18 all the way back --

19 A. Sure.

20 Q. -- in your testimony, but you said
21 something that you may have heard some anecdotes,
22 and -- and I'm just trying to figure out what you
23 were talking about. That's it.

24 A. Sure.

1 Q. And so in terms of those anecdotes that
2 you mentioned, first off, that's not any kind of
3 data or research or study or anything like that,
4 right?

5 MS. MILLER: Objection, form.

6 BY THE WITNESS:

7 A. Correct. "Anecdotes" was being
8 referenced as obviously, you know, the media
9 provide a lot of coverage on this topic and just
10 what you read, you know, what you observe through
11 all those different types of reports on social
12 media platforms about, you know, ways that --
13 whether it's true -- obviously not true NIL is a
14 separate category, as you've, you know, defined in
15 this question, but with true NIL, the reference was
16 to the fact that anecdotally you do see, you know,
17 reports media-wise and otherwise about, you know,
18 the impact that it has within team environments or
19 within, you know, individual sport environments
20 around true NIL being activated.

21 But from a Big Ten perspective, that was
22 getting back to my point of we support it, we
23 encourage it. Those anecdotal pieces are not
24 things that represent the Big Ten's view on what

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1 our belief is of true NIL post July 2021, still
2 allowing that competitive balance to maintain
3 because of the fact that we're still tethered to
4 all those other underlying principles of education
5 first, graduation, broad-based sports, et cetera.

6 BY MR. FEHER:

7 Q. Okay. And in that -- well, that's okay.
8 That's fine. Let's move away from that.

9 Actually, in terms of people who were
10 supportive, I'll give you what's Harbaugh Exhibit
11 134. It's an article from May 9, 2020 -- whoops,
12 sorry -- in "The Wolverine," and it says in the
13 headline, "Jim Harbaugh is 'All For' NIL Proposal,"
14 and it just says -- kind of midway down it says,
15 quote, "'We believe that the name, image and
16 likeness is a very good thing,' Harbaugh said."

17 Is that consistent with what you were
18 discussing a minute ago in terms of the Big Ten
19 being supportive of true NIL?

20 MS. MILLER: Objection, form.

21 BY THE WITNESS:

22 A. Again, I can't speak for Jim Harbaugh
23 back in May of 2020 and -- and whether or not that
24 was consistent with everybody in the Big Ten or the

REPORTER'S CERTIFICATE

I, VICTORIA C. CHRISTIANSEN, a Certified Shorthand Reporter of the State of Illinois, do hereby certify:

That previous to the commencement of the examination of the witness, the witness was duly sworn to testify the whole truth concerning the matters herein;

That the foregoing deposition transcript was reported stenographically by me, was thereafter reduced to typewriting under my personal direction and constitutes a true record of the testimony given and the proceedings had;

That the said deposition was taken before me at the time and place specified;

That I am not a relative or employee or attorney or counsel, nor a relative or employee of such attorney or counsel for any of the parties hereto, nor interested directly or indirectly in the outcome of this action.

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1 The witness has requested a review
2 pursuant to Rule 30(e)(1).
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4 IN WITNESS WHEREOF, I do hereunto set my
5 hand at Chicago, Illinois, this 6th day of October,
6 2023.

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8 VICTORIA C. CHRISTIANSEN,
9 Certified Shorthand Reporter.
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12 C.S.R. Certificate No. 84-3192.
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ERRATA SHEETNAME OF CASE: *In Re College Athlete NIL Litigation*

DATE OF DEPOSITION: October 4, 2023

NAME OF WITNESS: Kerry Kenny – 30(b)(6)

Reason Codes:

1. To clarify the record.
2. To conform to facts.
3. Transcription error.

Page(s)	Line(s)	From	to	Reason
29	3	[REDACTED]	[REDACTED]	Transcription error
39	18	“highest of”	“highest level of”	Transcription error
50	21	[REDACTED]	[REDACTED]	Conform to facts
62	14	[REDACTED]	[REDACTED]	Transcription error
73	21	[REDACTED]	[REDACTED]	Transcription error
83	22-23	[REDACTED]	[REDACTED]	Transcription error
127	16-17	“managed, changed and not force changed”	“was managed change and not forced change”	Transcription error
156	15-16	[REDACTED]	[REDACTED]	Clarify the record
157	19	[REDACTED]	[REDACTED]	Transcription error
180	4	“those participate”	“those who participate”	Transcription error

Page(s)	Line(s)	From	to	Reason
210	12	██████████	██████████	Transcription error
224	2	█	█	Transcription error
287	3	trips	contests	Transcription error

By: /s/ Kerry Kenny

DATE: December 11, 2023